

REMARKS

Claims 1-10 and 13-26 were presented for consideration and remain pending for consideration upon entry of the instant response.

The present Office Action requires restriction between the read-write head of Group I (claims 1-10 and 13-21) and the method of Group II (claims 22-26).

Applicant elects the invention of Group I, which includes claims 1-10 and 13-21. Specifically, Applicant requests examination of the method of Group II (claims 22-26) along with the examination of elected Group I (claims 1-10 and 13-21).

If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.

For purposes of the initial requirement, a serious burden on the examiner may be *prima facie* shown by appropriate explanation of a different field of search. However, the *prima facie* showing may be rebutted by appropriate evidence by the applicant. See MPEP 803.

The requirement for restriction asserts, as evidence of burden, that the device of Group I and the method of Group II do not relate to a single general inventive concept under PCT Rule 13.1.

Applicants respectfully rebut this *prima facie* showing.

Applicants submit that searching and examining the subject matter of Group II along with elected Group I does not place a serious burden on the Examiner. As evidence of this lack of serious burden and in rebuttal to the *prima facie* showing by the

requirement for restriction, Applicants point to the fact that prosecution of both Groups I and II has already commenced and has been ongoing for over 14 months.

More particularly, originally presented claims 1-38 included the same two groups of inventions (device and method) that are now being restricted. A First Requirement for Restriction dated March 27, 2007 required restriction between original Group 1 (claims 1-26) and original Group II (claims 27-38). Applicants elected the claims of original Group I by way of a response dated April 27, 2008.

Upon election of Group I from the First Requirement for Restriction, original claims 1-26 were searched and examined as set forth by the First Office Action on the merits dated July 24, 2007. Applicants responded to the First Office Action on December 26, 2007. Applicants arguments and amendments presented by the response filed on December 26, 2007 have not yet been considered.

In sum, Applicants respectfully submit that the First Office Action on the merits of original claims 1-26, including both Groups I and II, is sufficient evidence to rebut the *prima facie* case offered by the restriction requirement.

Moreover, Applicants submit that dividing the present application at this stage of prosecution places a burden on the public, which far outweighs any burden that may result from continuing examination of both Groups I and II.

More particularly, Applicants respectfully submit that proposed division of the claims, without consideration of Applicants' amendments and arguments already presented with respect to the subject matter of Group II, would provide an incomplete prosecution history with respect to the subject matter of Group II.

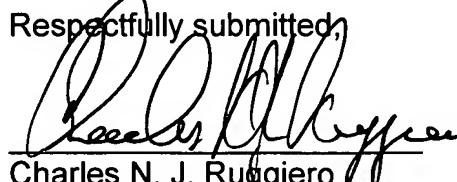
Applicants submit therefore, that the public would simply lack the necessary information to ascertain, with any requisite clarity, the scope of the claims eventually issuing directed to the subject matter of Group II.

Thus, Applicants submit that the publics' interest against interrupting prosecution of the subject matter of Group II far outweighs the interest in reducing burden on the examiner in the present application, especially in light of the fact the search and examination of the claims of Group II has already commenced and has been ongoing for more than 14 months.

In view of the above, Applicants respectfully requests reconsideration and withdrawal of the requirement for restriction and specifically request that the Examiner's favorable consideration of Applicants' previously submitted arguments and passage of all of the pending claims of this application to allowance. Such action is solicited.

If for any reason the Examiner feels that consultation with Applicants' attorney would be helpful in the advancement of the prosecution, the Examiner is invited to call the telephone number below.

September 29, 2008

Respectfully submitted,


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